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IDAHO LEGISLATURE

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FIFTY-SEVENTH LEGISLATURE

EIGHTY-NINTH LEGISLATIVE DAY
FRIDAY, APRIL 4, 2003

Senate Chamber

President Risch called the Senate to order at 9 a.m.

Roll call showed all members present except Senator Andreason, absent and formally excused by the Chair; and Senators Gannon, Malepeai, Noble, Pearce, Stegner, and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Abby Morehouse, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Malepeai and Pearce were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of April 3, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Gannon and Stegner were recorded present at this order of business.

April 3, 2003

The JUDICIARY AND RULES Committee reports that **S 1115**, as amended in the House, and **S 1165** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1115**, as amended in the House, and **S 1165** and ordered them transmitted to the House for the signature of the Speaker.

April 3, 2003

The JUDICIARY AND RULES Committee reports that **S 1051**, as amended in the House, and **S 1084**, as amended in the House, have been correctly engrossed.

DARRINGTON, Chairman

S 1051, as amended in the House, and **S 1084**, as amended in the House, were filed for first reading.

April 3, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 103**, **SCR 109**, **SCR 110**, **SJM 102**, and **SJM 103** were delivered to the Office of the Secretary of State at 2:36 p.m., April 3, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

April 3, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1050**, **S 1053**, as amended, **S 1075**, **S 1102**, as amended, and **S 1128** were delivered to the Office of the Governor at 3:15 p.m., April 3, 2002.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

April 3, 2003

The COMMERCE AND HUMAN RESOURCES Committee reports out **H 365** and **H 376** with the recommendation that they do pass.

ANDREASON, Chairman

H 365 and **H 376** were filed for second reading.

April 4, 2003

The AGRICULTURAL AFFAIRS Committee reports out **H 391** with the recommendation that it do pass.

WILLIAMS, Chairman

H 391 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

Senator Stennett was recorded present at this order of business.

April 3, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I hereby advise you that I am returning to you, without my approval, disapproved and vetoed, the following Senate Bill, to wit:

S 1159

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 2:15 pm on March 28, 2003.

I. INTRODUCTION

Senate Bill 1159 represents a reduction in dedicated spending authority of \$8.7 million for the Idaho Transportation Department. Specifically, this legislation provides less flexibility to the Idaho Transportation Board to meet Idaho's growing transportation system needs.

It is important to recognize that the Idaho Transportation Department (ITD) is tasked with providing a safe, efficient and cost-effective transportation system. The ITD is responsible for the maintenance of and improvements to over 11,850 miles of highway and 1,744 bridges in the state transportation system.

In addition, improvements to our transportation system are critical to our efforts to expand economic development opportunities across this state. Our communities rely upon an adequate transportation system to retain and attract new businesses. Also, each year, thousands of Idahoans are employed in high-paying construction jobs that are funded through the ITD.

At a time when our state is experiencing its worst fiscal crisis since World War II, taking an action that does nothing to help balance the state's general fund revenue shortfall, and only reduces the funding available to create good-paying jobs, promote economic development and improve our transportation mobility, is not prudent.

II. DISCUSSION

The ITD is entirely funded with dedicated funds. Approximately 50% of the ITD budget revenue is from federal-aid dollars - originating from the Transportation Equity Act for the 21st Century (TEA-21). The remaining 50% of the ITD budget originates from dedicated state funds such as the state fuel tax, registration fees and other dedicated sources.

The TEA-21 is a six-year federal transportation authorization bill that provided Idaho with one of the largest state increases in federal transportation funding in the country. Idaho received over a 60% increase in federal funding over the life of TEA-21.

The ITD or local governments must provide a match for these federal funds - typically 93% federal to 7% state or local. ITD utilizes state dedicated funds as the match requirement for federal dollars. In addition to using state dedicated funds as a federal match, ITD also uses these revenues for state highways not eligible for the use of federal funds.

The state of Idaho has made tremendous progress in meeting the transportation needs of its citizens. In fact, the number of deficient miles of pavement in the state has been reduced by 30% since 1998. In addition, the number of weight-restricted bridges (restrictions that impede commercial traffic, cause safety hazards, and contribute to congestion) has decreased by 60% since FY99.

Given these successful steps to date, it would not be wise to reduce the dedicated spending authority for the ITD. The ITD uses forecasted revenue projections when setting its budget. Should the projected revenue not materialize in any given year, the Department has internal holdback procedures in place to ensure the expenditures match the revenue. In fact in FY03, the Department did participate in internal holdbacks based upon deviations from its revenue projections.

These internal safeguards will protect the ITD from expending more revenue than it collects. However, should revenues materialize as projected in the FY04 forecast, the reductions in dedicated spending authority in **S 1159** would tie the hands of the ITD and would prevent them from spending these dedicated funds on the state's transportation system.

The following are my specific objections to **Senate Bill 1159**:

1. Contract construction

The bill makes a \$3.2 million reduction in contract construction spending authority that would preclude the ITD from utilizing these funds to make the necessary safety, efficiency and capacity expansion improvements to the state's highways and bridges. In addition, it is estimated that every \$1 million expended on a transportation project creates 42 jobs. Therefore, approximately 135 (direct) private sector jobs would not be available to Idahoans. If the available funds were utilized as a match for federal dollars, the number of private sector jobs lost would be exponentially greater.

2. Maintenance

Equally troubling, **Senate Bill 1159** makes a \$1 million ongoing reduction in the operating expenditures of the ITD - thus reducing the base. The ITD utilizes these funds for materials used in striping and guardrail projects as well as materials such as sand, salt and other de-icing compounds used during the winter months. If Idaho were to experience a snowstorm similar to the recent Colorado blizzard, reductions such as this would hamper our ability to efficiently respond to the public need.

III. CONCLUSION

I respectfully object to reductions that jeopardize the state's ability to respond to its transportation needs. This administration and the ITD will continue to find efficiencies and savings, but the reductions envisioned in this bill would not help the state meet its budget shortfall. They would, however, hamper our ability to make needed transportation investments.

Because of my commitment to Idaho's future, I hereby withhold my approval for and disapprove, and veto **Senate Bill 1159**. However, I am willing to favorably consider subsequent legislation that addresses these concerns.

Sincerely,
/s/ Dirk Kempthorne
Governor

The question being, "Shall **S 1159** become law, the Governor's veto notwithstanding?"

Senator Cameron requested unanimous consent that **S 1159** be recommitted to the Finance Committee

Senator Calabretta objected.

Moved by Senator Cameron, seconded by Senator Davis, that **S 1159** be recommitted to the Finance Committee. The question being, "Shall the motion prevail?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 30.

NAYS--Calabretta, Malepeai. Total - 2.

Absent and excused--Andreason, Burkett, Noble. Total - 3.

Total - 35.

More than two-thirds having voted in the affirmative, the President declared that the motion had prevailed, and **S 1159** was recommitted to the Finance Committee.

The correspondence from the Governor was ordered filed in the office of the Secretary of the Senate.

April 3, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1093, S 1134

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

April 3, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

S 1158

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

April 3, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I hereby advise you that I have signed and transmitted to the Office of the Secretary of State, with my approval, the following Senate Bill, to wit:

S 1155

Senate Bill 1155 reduces general fund support to the Department of Environmental Quality by \$1,113,800 (7.1%). While I have signed the bill, I have concerns that I hope the Legislature will address in subsequent legislation.

After months of negotiations, my administration negotiated an agreement between industry and the Department of Environmental Quality (DEQ) on the Title V air program. DEQ reviewed the program and removed all components not specifically required to be funded from Title V fees, agreeing to instead fund those services from the general fund. Industry agreed to support a rule change that increased their fees for Title V services. This effectively reduced the size and cost of the air program and significantly reduced the amount of the fee increase required from industry to maintain the program.

I urge the Legislature to consider a transfer of \$300,000 from dedicated funds to general funds. The state has made an obligation and we must support the agreement made with industry.

My concerns also center on severe reductions of nearly one million dollars in the Water Division of DEQ. Reductions of this magnitude may result in savings for the state but will likely have a greater than expected impact on local projects, monitoring, and support for local processes. Funds in the Water Division go to improvements to public drinking water systems and municipal water treatment systems, irrigation and soil conservation district water quality improvements and other public and private sector interests.

I respect the Legislature's efforts to find efficiencies and make reductions. This legislation presents a challenge: it contains significant cuts to programs that are important to the State but does not fall within the realm of cutting essential services. Therefore, I have signed this legislation recognizing its deficiencies and asking the Legislature to review these impacts in greater detail.

After your review, I urge your consideration of follow-on legislation to reduce the magnitude of the reductions for the Water Division and provide for the transfer of Title V funding.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence from the Governor was filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

April 3, 2003

Mr. President:

I transmit herewith **H 392** which has passed the House.

JUKER, Chief Clerk

H 392 was filed for first reading.

April 3, 2003

Mr. President:

I transmit herewith Enrolled **H 370, H 371, H 322, H 228, H 306, H 270, H 319, H 326, H 160**, as amended, and **H 199**, as amended, as amended in the Senate, for the signature of the President, and I return herewith Enrolled **S 1136**, as amended, and **S 1167**, which have been signed by the Speaker.

JUKER, Chief Clerk

The President signed Enrolled **H 370, H 371, H 322, H 228, H 306, H 270, H 319, H 326, H 160**, as amended, and **H 199**, as amended, as amended in the Senate, and ordered them returned to the House.

Enrolled **S 1136**, as amended, and **S 1167** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced that **HCR 29** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Bailey, seconded by Senator Stennett, **HCR 29** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President announced that **HJM 11** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Bailey, seconded by Senator Lodge, **HJM 11** was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

The President announced the Local Government and Taxation Committee report relative to the Gubernatorial appointment of Coleen Grant was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Ingram, seconded by Senator Malepeai, the Gubernatorial appointment of Coleen Grant as a member of the Idaho State Tax Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1051, as amended in the House, and **S 1084**, as amended in the House, by Commerce and Human Resources Committee, were read the first time at length and filed for second reading.

H 392, by Ways and Means Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 44, by Mr. Speaker, was read the second time at length and filed for third reading.

H 284, by Ways and Means Committee, was read the second time at length and filed for third reading.

H 387 and **H 385**, by State Affairs Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Sorensen, granted by unanimous consent, **S 1177**, having been held, was recommitted to the State Affairs Committee.

H 279, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Andreason, Burkett, Noble. Total - 3.

Total - 35.

Whereupon the President declared **H 279** passed, title was approved, and the bill ordered returned to the House.

H 367 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Schroeder, Gannon, and Werk arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Werk, Williams. Total - 30.

NAYS--Keough, Pearce, Sweet. Total - 3.

Absent and excused--Andreason, Noble. Total - 2.

Total - 35.

Whereupon the President declared **H 367** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, **H 283**, as amended, and **H 284** were placed at the head of the Third Reading Calendar, with **H 264** and **H 317** remaining at the foot of the Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 11:35 a.m. until the hour of 9:30 a.m., Monday, April 7, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary